

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re

**WESCO AIRCRAFT HOLDINGS, INC.,
et al.,¹**

Debtors.

Case No. 23-90611 (DRJ)

Chapter 11

(Joint Administration Requested)

**DEBTORS' EMERGENCY MOTION FOR
ENTRY OF AN ORDER (I) AUTHORIZING
THEM TO MAINTAIN AND ADMINISTER
THEIR EXISTING CUSTOMER PROGRAMS
AND HONOR CERTAIN RELATED PREPETITION
OBLIGATIONS AND (II) GRANTING RELATED RELIEF**

Emergency relief has been requested. Relief is requested not later than 1:00 p.m. (Central Time) on June 1, 2023.

If you object to the relief requested or you believe that emergency consideration is not warranted, you must either appear at the hearing or file a written response prior to the hearing. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

A hearing will be conducted on this matter on June 1, 2023 at 1:00 p.m. (Central Time) in Courtroom 400 (Jones), 4th Floor, 515 Rusk, Houston, Texas 77002. Participation at the hearing will only be permitted by an audio and video connection.

¹ The Debtors operate under the trade name Incora and have previously used the trade names Wesco, Pattonair, Haas, and Adams Aviation. A complete list of the Debtors in these chapter 11 cases, with each one's federal tax identification number and the address of its principal office, is available on the website of the Debtors' noticing agent at <http://www.kccllc.net/incora/>. The service address for each of the Debtors in these cases is 2601 Meacham Blvd., Ste. 400, Fort Worth, TX 76137.



2390611230601000000000004

Audio communication will be by use of the Court’s dial-in facility. You may access the facility at 1 (832) 917-1510. Once connected, you will be asked to enter the conference room number. Judge Jones’s conference room number is 205691. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge Jones’s home page. The meeting code is “Judge Jones”. Click the settings icon in the upper right corner and enter your name under the personal information setting.

Hearing appearances must be made electronically in advance of both electronic and in-person hearings. To make your appearance, click the “Electronic Appearance” link on Judge Jones’s home page. Select the case name, complete the required fields and click “Submit” to complete your appearance.

The above-captioned debtors and debtors in possession (the “**Debtors**” and, together with their non-Debtor subsidiaries, “**Incora**”) respectfully state as follows.

RELIEF REQUESTED

1. By this motion (the “**Motion**”), the Debtors seek entry of an order (i) authorizing the Debtors to maintain and administer their customer-related programs, policies, and practices and honor certain related prepetition obligations; and (ii) granting related relief. A proposed form of order is attached to this Motion as **Exhibit A** (the “**Proposed Order**”).

2. The principal statutory bases for this Motion are sections 105(a), 363, and 1107(a) of title 11 of the U.S. Code (the “**Bankruptcy Code**”), Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedures (the “**Bankruptcy Rules**”), and Rules 1075-1 and 9013-1 of the Bankruptcy Local Rules of the U.S. Bankruptcy Court for the Southern District of Texas (the “**Local Rules**”).

3. In support of this Motion, the Debtors rely upon the *Declaration of Raymond Carney in Support of Chapter 11 Petitions and First-Day Motions* filed concurrently with this Motion (the “**First Day Declaration**”).²

JURISDICTION AND VENUE

4. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. § 1334. This Motion is a core proceeding under 28 U.S.C. § 157(b). Venue in the Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

I. GENERAL BACKGROUND

5. Incora is a provider of supply chain management services in several industries and the largest independent distribution and supply chain services provider in the global civilian and

² Capitalized terms used but not defined in this Motion have the meanings ascribed to them in the First Day Declaration.

military aerospace industry. In its distribution business, Incora offers aerospace hardware and parts, electronic products, chemicals, and tooling products, which it procures, tracks and provides to customers from service centers around the world. In its service business, Incora manages all aspects of its customers' supply chains, including procurement, warehouse management, and on-site customer services, offering both customized supply-chain management plans and ad hoc direct sales. In both lines, timely delivery of necessary hardware and chemicals is critical to the business operations of Incora and its civilian and military customers. In the ordinary course of its business the Debtors have outstanding obligations under customer programs, the continuation of which is an important element in the successful reorganization of the Debtors.

6. On June 1, 2023 (the “*Petition Date*”), the Debtors each commenced a voluntary case under chapter 11 of the Bankruptcy Code in this Court. The Debtors have requested joint administration of their chapter 11 cases for procedural purposes. The Debtors are operating their businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee, examiner or official committee has been appointed.

7. Additional information regarding the Debtors' businesses, assets, capital structure, and the circumstances leading to the filing of these chapter 11 cases is set forth in the First Day Declaration.

II. CUSTOMER PROGRAMS

8. To solicit and retain customer business, the Debtors provide various rebates, promotional discounts, service credits and adjustments, and refunds to certain of their customers in the ordinary course of business (the “*Promotional Programs*”). In addition, the Debtors generate business by participating in a number of programs related to customer convenience, whereby the Debtors provide third-party logistics services to certain customers and/or provide customers with flexible payment options by participating in various customer-led factoring facilities (the “*Convenience Programs*”).

9. Maintaining market confidence in the Debtors' ability to provide critical supplies on a timely basis is crucial to their reorganization efforts. Because of the filing of these chapter 11

cases, the Debtors must take immediate, active steps to preserve their relationships with over 8,400 loyal customers world-wide, including various essential business relationships across the aerospace, automotive, military, and pharmaceutical industries.³ If the Debtors do not honor their Promotional Programs and Convenience Programs (collectively, the “*Customer Programs*”), counterparties to these business relationships (whether or not governed by written contracts) may exercise their discretion to refrain from directing future business to the Debtors. The loss of such future business or a delay in placing further business would vastly outweigh the amounts the Debtors are seeking authority to pay by this Motion.

A. The Promotional Programs

10. The Debtors offer a number of promotional programs in order to incentivize customers to place larger volume orders, order specific products, make expedited payments, and/or compensate customers for delay, unavailability, or non-compliance.

1. Rebates

11. In the ordinary course of business, the Debtors often provide their customers with discounts dispensed in the form of percentage-based rebates (the “*Rebates*”), which are generally based on contract-specific, annual purchase volumes. Subject to a negotiation process, the terms of the Rebates vary by customer and are memorialized in contractual agreements. Rebate payments materially impact total costs for qualifying customers, so the Debtors believe that continuing to make such payments is necessary and crucial to maintaining good relationships with their existing customers and attracting new customers. The Debtors believe that there is a possible risk that customers who are entitled to or justifiably expecting Rebate payments may take their business to competitors if such payments are not made.

³ Notably, the Debtors’ relationships with their ten largest customers span, on average, over 25 years and collectively represented approximately 57% of their revenue in fiscal year 2022. These high-value, long-term relationships exemplify those that the Debtors seek to preserve.

12. The Debtors estimate that, as of the Petition Date, approximately \$14 million is outstanding on account of the Rebates.⁴ The Debtors request authority, but not direction, to continue the Rebates and to honor all of the Debtors' related obligations, including satisfying any prepetition Rebate payments, on a postpetition basis consistent with past practice.

2. *Discounts*

13. In the ordinary course of business, the Debtors offer various discounts (the "***Discounts***") to customers based on purchase order volume for certain products and/or based on when the Debtors receive payment from said customers. Subject to a negotiation process, the terms of the Discounts vary by customer and are memorialized in contractual agreements. Importantly, the Discounts offered involve no cash outlay. The Debtors believe that continuing to offer Discounts consistent with pre-petition terms will aid in maintaining favorable payment timelines and securing bulk orders. Furthermore, the Debtors believe that offering said Discounts is necessary and crucial to maintaining good relationships with their existing customers and attracting new customers. The Debtors believe that there is a possible risk that customers who are justifiably expecting Discounts on future orders may take their business to competitors if such Discounts are no longer offered.

14. The Debtors request authority, but not direction, to continue the Discounts and to honor all of the Debtors' related obligations on a postpetition basis consistent with past practice.

3. *Credits and Adjustments*

15. Additionally, in the ordinary course of business, the Debtors offer certain adjustments, reimbursements, or other payments (collectively, "***Credits and Adjustments***") to compensate customers for delay, unavailability, or other forms of non-compliance. Specifically, the Debtors provide (a) adjustments to compensate customers for deliveries that arrive after contractual deadlines; (b) adjustments to compensate customers for manufacturing delays resulting

⁴ As of the Petition Date, Rebates account for over 75% of customer-related liabilities. The largest Rebate as of the Petition Date is approximately \$8.3 million and accounts for approximately 61% of all estimated Rebates.

from delayed delivery of products; (c) reimbursement of costs incurred to source delayed or unavailable products from an alternative supplier; (d) replacement of non-compliant or otherwise defective products within contractually set timeframes, including the payment of acquisition costs in the event that the Debtors fail to meet contractually agreed-on amounts; and (e) reductions to service fees in the event that key performance indicators are not met. Subject to a negotiation process, these Credits and Adjustments vary by customer and are memorialized in contractual agreements. The Debtors believe that there is a possible risk that customers who are entitled to or justifiably expecting Credits and Adjustments may take their business to competitors if such payments are not made. Furthermore, customers that are entitled to prepetition Credits and Adjustments may seek legal recourse to collect on or otherwise enforce amounts owed, including in foreign jurisdictions.

16. The Debtors estimate that, as of the Petition Date, approximately \$5 million is outstanding on account of the Credits and Adjustments. The Debtors request authority, but not direction, to continue the Credits and Adjustments and to honor all of the Debtors' related obligations, including satisfying any prepetition Credits and Adjustments, on a postpetition basis consistent with past practice.

B. The Convenience Programs

17. The Debtors participate in two key forms of payment-related programs, which provide customers with greater purchasing power, added flexibility in the timing of their payments, and potentially enable them to place orders that they could not have otherwise: (a) third-party logistics services and (b) factoring agreements with certain banking institutions. These programs benefit the Debtors and their estates by allowing them to offer additional services and/or provide more competitive terms to their customers, which in turn enhance client relationships and generate additional business.

1. *Third-Party Logistics*

18. When deemed to be in the best interests of their business and to enhance revenues, the Debtors occasionally opt to serve as a third-party logistics provider to certain customers (the

“**Logistics Services**”) all within the normal scope of their operations. In practice, the Debtors will themselves purchase inventory from various parties and then concurrently be reimbursed by an interested customer for that inventory, thereby transferring title to that inventory to the relevant customer. In many such cases, the Debtors will retain physical possession of the purchased inventory, storing and maintaining it within their warehouses while collecting maintenance fees from the applicable customer.⁵ Subject to a negotiation process, the terms of these Logistics Services vary by customer and are memorialized in contractual agreements.

19. The Debtors believe that the provision of these Logistics Services is a valuable revenue generating activity and is also necessary to guarantee the competitiveness of their products and related services and to ensure that they are available on demand for use by their current and potential customer base. The Debtors believe that there is a possible risk that both existing and new customers may be unable, or unwilling, to purchase goods and related services from the Debtors absent the flexibility provided by these Logistics Services.

20. The Debtors request authority, but not direction, to continue the Logistics Services and to honor all of the Debtors’ related obligations on a post-petition basis, including by delivering to customers any customer-owned inventory that is held by the Debtors at warehouses that are owned, operated, or otherwise utilized by the Debtors in effectuating the Logistics Services.

2. **Factoring Agreements**

21. The Debtors are currently party to six customer-specific agreements to factor receivables (the “**Factoring Agreements**”),⁶ by and among certain key customers and various banking institutions, through which select Debtors sell certain outstanding U.S. dollar-denominated receivables (the “**Receivables**”) to participating banks in exchange for an expedited, contractually agreed percentage of the sold Receivables. The transactions under the Factoring

⁵ As of the Petition Date, the Debtors hold approximately \$69 million of customer-owned inventory in their warehouses.

⁶ The Katsumi factoring facility, described in the Debtors’ Cash Management Motion, is not included among these customer-specific facilities.

Agreements are structured as true sales: the relevant Debtor assigns absolutely and with full right, title, and interest the sold Receivables to the purchasing counterparty concurrent with receiving the discounted payment.

22. These Factoring Agreements are arranged by individual customers for their own convenience. The Debtors' participation in the Factoring Agreements enables them to provide customers with longer contractual periods between the delivery of an invoice and the customer's payment thereof than would otherwise be practicable or desirable in the operation of the Debtors' businesses, which promotes the accessibility of their products and creates value for their customers. Furthermore, the Factoring Agreements provide the Debtors with certainty in the timing of payment, which factors positively into their price tolerance and consideration of other trade terms. The Factoring Agreements also provide the Debtors with greater operational flexibility and greater flexibility in their near-term liquidity needs.

23. The Debtors believe that the provision of these Factoring Agreements is necessary to guarantee the competitiveness of their products and related services and to ensure that they are maximally accessible to their existing customer counterparties. The Debtors believe that there is a possible risk that participating customers may be unable, or unwilling, to purchase goods and related services from the Debtors absent the favorable trade terms that are currently enabled by these Factoring Agreements.

24. The Debtors estimate that, as of the Petition Date, the amount of outstanding purchased Receivables is approximately \$24 million. The Debtors request authority, but not direction, to continue utilizing the Factoring Agreements and to honor all of the Debtors' related obligations on a postpetition basis consistent with past practice.

BASIS FOR RELIEF

I. AUTHORITY TO PAY CUSTOMER PROGRAMS IS WARRANTED AND SHOULD BE GRANTED.

25. Because the ability to continue the Customer Programs is critical to the Debtors' continued operations, the Debtors submit that the requested relief may be granted under sections 363, 105(a), and 1107(a) of the Bankruptcy Code, as well as the doctrine of necessity.

26. Courts in this and other districts have granted similar relief in similar cases. *See, e.g., In re Nat'l CineMedia, LLC*, Case No. 23-90291 (DRJ) (Bankr. S.D. Tex. April 12, 2023) (Docket No. 68) (granting relief on a final basis on the first day); *In re CBC Restaurant Corp.*, Case No. 23-10245 (KBO) (Bankr. D. Del. March 27, 2023) (Docket No. 216); *In re Diamond Sports Group, LLC*, Case No. 23-90116 (CML) (Bankr. S.D. Tex. March 16, 2023) (Docket No. 147) (granting relief on a final basis on the first day); *In re Tuesday Morning Corporation*, Case No. 23-90001 (ELM) (Bankr. N.D. Tex. February 17, 2023) (Docket No. 162) (granting relief on a final basis within the first week); *In re Avaya Inc.*, Case No. 23-90088 (DRJ) (Bankr. S.D. Tex. February 15, 2023) (Docket No. 85) (granting relief on a final basis on the first day); *In re Nielsen & Bainbridge, LLC*, Case No. 23-90071 (DRJ) (Bankr. S.D. Tex. February 9, 2023) (Docket No. 54) (granting relief on a final basis on the first day); *In re IEH Auto Parts Holding LLC*, Case No. 23-90054 (CML) (Bankr. S.D. Tex. February 1, 2023) (Docket No. 45) (granting relief on a final basis on the first day).

A. Section 363(c) of the Bankruptcy Code Permits the Debtors to Pay Customer Programs Obligations.

27. As an initial matter, because the Debtors engage in transactions related to the Customer Programs on a regular basis and such transactions are common among enterprises similar to the Debtors, the Debtors submit that continuing the Customer Programs consistent with prepetition practices is in the ordinary course of their business and therefore authorized under section 363(c) of the Bankruptcy Code. Section 363(c) of the Bankruptcy Code authorizes a debtor in possession to use property of the estate in the ordinary course of business without notice or a hearing. Consequently, the postpetition continuation, renewal, and replacement of obligations

under the Customer Programs in the ordinary course of business is likely permitted by sections 363(c), 1107(a), and 1108 of the Bankruptcy Code, without further application to the Court. Out of an abundance of caution, however, the Debtors request the relief described in this Motion.

B. Continuation of the Customer Programs is also Appropriate Under Section 363(b).

28. Payment of prepetition obligations is appropriate where necessary to protect and preserve the estate, including an operating business's going-concern value. *See, e.g., In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002).

29. The Debtors believe that the Court can and should authorize the continuation of these several programs under section 363(b)(1) of the Bankruptcy Code, which provides, in relevant part, that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate” Consistent with a debtor’s fiduciary duties, where there is a sound business purpose for continuing to perform and honor these prepetition obligations, and where the debtor is able to “articulate some business justification, other than the mere appeasement of major creditors,” courts have authorized debtors to make such payments under section 363(b) of the Bankruptcy Code. *See, e.g., In re BNP Petroleum Corp.*, 642 F. App’x 429, 435 (5th Cir. 2016); *In re Cont’l Air Lines*, 780 F.2d 1223, 1226 (5th Cir. 1986) (“[F]or a debtor-in-possession or trustee to satisfy its fiduciary duty to the debtor, creditors and equity holders, there must be some articulated business justification for using, selling, or leasing the property outside the ordinary course of business.”); *see also ASARCO, Inc. v. Elliott Mgmt. (In re ASARCO L.L.C.)*, 650 F.3d 593, 601 (5th Cir. 2011) (“Section 363 of the Bankruptcy Code address the debtor’s use of property of the estate and incorporates a business judgment standard. . . . The business judgment standard in section 363 is flexible and encourages discretion.”). Once the debtor articulates a reasonable basis for its business decisions, “courts will generally not entertain objections to the debtor’s conduct.” *Comm. of Asbestos Related Litigants v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986). There is a presumption that “in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.”

In re Integrated Res., Inc., 147 B.R. 650, 656 (S.D.N.Y. 1992) (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)).

30. The Debtors submit that continuing the Customer Programs in the ordinary course and paying all obligations in connection therewith has a “sound business purpose” and thus should be authorized.

31. Continuing the Customer Programs without interruption during the pendency of the chapter 11 cases is critical for the preservation of the value of the Debtors’ estates. The Debtors’ customers expect and rely on the Customer Programs and may not continue supporting the Debtors’ businesses if the Customer Programs are no longer available. If the Debtors’ customers believe that the Debtors are unable or unwilling to honor their obligations under the Customer Programs, that perception likely will harm the Debtors’ goodwill and business relationships with those customers. Thus, any delay in honoring the Debtors’ obligations on account of the Customer Programs could disrupt the Debtors’ efforts to maximize value for the benefit of all stakeholders. The negative collateral consequences to the Debtors’ go-forward business from a failure to honor their obligations under the Customer Program would vastly exceed whatever modest short-term cost savings the Debtors might achieve.

C. The Court Can Authorize Payments Under Section 105(a) and the Doctrine of Necessity.

32. Section 105(a) of the Bankruptcy Code also authorizes the Court to issue “any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a). This provision therefore provides a statutory basis for a debtor-in-possession to pay prepetition claims. *See, e.g., In re CoServ, L.L.C.*, 273 B.R. at 497 (noting that “it is only logical that the bankruptcy court be able to use [s]ection 105(a) of the [Bankruptcy] Code to authorize satisfaction of the prepetition claim in aid of preservation or enhancement of the estate” and holding that section 105(a) provides a statutory basis for payments where necessary to fulfill the debtor’s fiduciary duties under section 1107(a)); *see also In re Just for Feet, Inc.*, 242 B.R. 821, 825 (D. Del. 1999); *In re Scotia Dev.*, 2007 WL 2788840, at *1–2,

2007 Bankr. LEXIS 3262, at *7–8 (Bankr. S.D. Tex. Sept. 21, 2007); *In re CEI Roofing, Inc.*, 315 B.R. 50, 56 (Bankr. N.D. Tex. 2004); *In re Mirant Corp.*, 296 B.R. 427 (Bankr. N.D. Tex. 2003); *cf. Czyzewski v. Jevic Holding Corp.*, 137 S. Ct. 973, 987 (2017) (citing first day orders for payments to employees and critical vendors as examples of “priority-violating distributions” that courts have allowed due to “significant Code-related objectives”).

33. This understanding of section 105(a) has its basis in the doctrine of necessity or the “necessity of payment” doctrine. Under that longstanding doctrine, a bankruptcy court may exercise its equitable power to allow a debtor to pay critical prepetition claims that are not explicitly authorized by the Bankruptcy Code. *See In re CoServ, L.L.C.*, 273 B.R. at 497 (recognizing the doctrine of necessity for purposes of approving a motion to pay prepetition claims); *In re Lehigh & New Eng. Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (holding that a court may authorize payment of prepetition claims if such payment is essential to continued operation of debtor); *Dudley v. Mealey*, 147 F.2d 268, 271 (2d Cir. 1945) (holding the court was not “helpless” to supply creditors where the alternative was cessation of operations). Allowing the Debtors to continue the Customer Programs and satisfy prepetition obligations related thereto is especially appropriate where, as here, doing so is consistent with the “two recognized policies” of chapter 11 of the Bankruptcy Code: preserving going concern value for the Debtors’ business and maximizing the value of property available to satisfy creditors. *See Bank of Am. Nat’l Trust & Savs. Ass’n v. 203 N. LaSalle St. P’ship*, 526 U.S. 434, 453 (1999).

34. The Court can authorize the Debtors to continue the Customer Programs and satisfy prepetition obligations related thereto pursuant to sections 105(a) and 363 of the Bankruptcy Code. As described above, continuation of the Customer Programs is critical to preserving the value of the Debtors’ estates. Customers expect and rely on the Customer Programs and may not continue supporting the Debtors’ businesses if the Customer Programs are discontinued. Continued support from the Debtors’ customers is essential for go-forward operations and value maximization, and no party can assert otherwise. Accordingly, the Court may grant the requested relief under section 105(a) of the Bankruptcy Code and/or the doctrine of necessity.

D. The Debtors' Fiduciary Duties Justify Payment of the Customer Programs.

35. Additionally, under section 1107(a) of the Bankruptcy Code, a debtor has, among other things, the “implied duty of the debtor-in-possession to ‘protect and preserve the estate, including an operating business’ going-concern value.” *In re CEI Roofing, Inc.*, 315 B.R. at 59 (quoting *In re CoServ, L.L.C.*, 273 B.R. at 497). Bankruptcy courts have noted that, in certain circumstances, the pre-plan satisfaction of prepetition claims may be the only way to fulfill this duty. *See Institutional Creditors of Cont'l Air Lines, Inc. v. Cont'l Air Lines, Inc. (In re Cont'l Air Lines, Inc.)*, 780 F.2d 1223, 1226 (5th Cir. 1986) (“[F]or a debtor-in-possession or trustee to satisfy its fiduciary duty to the debtor, creditors and equity holders, there must be some articulated business justification for using, selling, or leasing the property outside the ordinary course of business.”); *In re CoServ, L.L.C.*, 273 B.R. at 497 (accepting the debtor’s argument that its fiduciary duties may require pre-plan payments to unsecured creditors). In *CoServ*, the Court noted that the debtor’s fiduciary duty may come into effect where pre-plan payment “is the only means to effect a substantial enhancement of the estate,” and also when the payment was to the “sole suppliers of a given product.” *Id.* at 497–98.

36. Courts in the Fifth Circuit, including the Southern District of Texas, have followed *CoServ*’s three-part test to determine whether key prepetition claims may be paid by a debtor outside of the chapter 11 plan process on a postpetition basis. *See, e.g., In re Scotia Dev, LLC*, 2007 WL 2788840, at *1–2, 2007 Bankr. LEXIS 3262, at *7–8. First, it must be critical that the debtor deal with the claimant; second, unless it deals with the claimant, the debtor risks the probability of harm or, alternatively, loss of economic advantage to the estate or the debtor’s going concern value, which is disproportionate to the amount of the claimant’s prepetition claim; and third, there is no practical or legal alternative by which the debtor can deal with the claimant other than by payment of the claim. *In re CoServ, L.L.C.*, 273 B.R. at 498; *see also Mirant Corp.*, 296 B.R. at 429–30. In each instance, the Customer Programs facilitate value preservation and promote value appreciation by promoting customer confidence in their seamless transition through chapter 11, in addition to incentivizing increased sales. Accordingly, the Bankruptcy Code

authorizes the payment of prepetition claims where, as here, such payments are critical to preserving and enhancing the going-concern value of a debtor's estate.

II. THE COURT SHOULD DIRECT FINANCIAL INSTITUTIONS TO HONOR AUTHORIZED PAYMENTS.

37. To facilitate implementation of the above-requested relief, the Debtors further request that the Court authorize and direct all applicable banks and financial institutions to receive, process, honor, and pay any and all checks drawn or electronic fund transfers from its accounts, whether such checks were presented prior to or after the Petition Date, to the extent such checks or electronic fund transfers are identified by the Debtors as relating directly to the authorized payments on the Customer Programs obligations. The Debtors also seek authority to issue new postpetition checks, or effect new electronic fund transfers, on account of such claims to replace any prepetition checks or other transfer requests that may be dishonored or rejected as a result of the commencement of the chapter 11 cases.

38. The Debtors believe that they have sufficient availability of funds to pay the amounts described herein in the ordinary course of business by virtue of cash reserves, expected cash flows from business operations and from the anticipated authorization to borrow post-petition financing and to use cash collateral. Through the Debtors' existing cash management system, the Debtors believe that checks or other transfer requests can be readily identified as an authorized payment on the Customer Programs obligations, and the Debtors are prepared to assist their banks by confirming whether particular transfers are authorized by an order granting this Motion. Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently and that all applicable financial institutions should be authorized, when requested by the Debtors, to receive, process, honor and pay any and all checks or wire transfer requests in respect of the Customer Programs obligations.

EMERGENCY CONSIDERATION

39. Bankruptcy Rule 6003 allows a bankruptcy court to grant relief within the first 21 days of a case "to the extent that relief is necessary to avoid immediate and irreparable harm,"

and paragraph 17 of the Complex Case Procedures requires that all non-emergency motions be filed on at least 21 days' notice. Pursuant to those rules and Bankruptcy Local Rule 9013-1(i), the Debtors request emergency consideration of this Motion.

40. As described above, continuation of the Customer Programs and payment of the obligations that accrued prior to the Petition Date are critical and necessary to maintain the Debtors' operations and preserve the Debtors' business relationships with current customers. Accordingly, the Debtors submit that they have satisfied the "immediate and irreparable harm" standard of Bankruptcy Rule 6003 to support granting the relief requested in this Motion on an emergency basis. Likewise, to ensure that any necessary Customer Programs obligations are paid when due, the Debtors request that the Court find that notice of the Motion satisfies Bankruptcy Rule 6004(a) and that the Court waive the 14-day period under Bankruptcy Rule 6004(h).

RESERVATIONS OF RIGHTS

41. Nothing in this Motion is intended or should be construed as (a) an implication, admission, or concession as to the validity, amount or priority of, or basis for, any claim against any Debtor; (b) a waiver of any Debtor's or any other party in interest's right to dispute any claim on any ground; (c) a promise or requirement to pay any claim; (d) a waiver of any claim or cause of action that any Debtor or other party in interest may have against any entity; (e) a ratification, adoption, rejection or assumption of any agreement, contract or lease under section 365 of the Bankruptcy Code; (f) a waiver or limitation of any Debtor's or other party in interest's rights under any agreement, the Bankruptcy Code or other applicable law; or (g) an implication, admission or concession (i) that any particular claim is of a type specified or defined in the Motion or (ii) any lien, security interest, other encumbrance on property of any Debtor or (ii) that any lien, security interest, other encumbrance on property of any Debtor or right of setoff is valid, enforceable or perfected (and the Debtors and all other parties in interest expressly reserve and preserve their rights to contest or to seek avoidance of, the same). If the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an

admission as to the validity of any particular claim or a waiver of the Debtors' or any other party in interest's rights to subsequently dispute such claim.

42. Furthermore, although this Motion is intended to be comprehensive, the Debtors may have inadvertently omitted some Customer Programs and reserve their right to supplement this Motion with any subsequently identified Customer Programs.

NOTICE

43. Notice of this Motion will be provided to (a) the Office of the U.S. Trustee for Region 7; (b) the creditors holding the thirty largest unsecured claims, according to the list filed by the Debtors with their petitions and their counsel; (c) the administrative agent for the ABL Facility and its counsel; (d) the indenture trustee for the 1L Notes and its counsel; (e) the indenture trustee for the 1.25L Notes and its counsel; (f) the indenture trustee for the Unsecured Notes and its counsel; (g) the indenture trustee for the PIK Notes and its counsel; (h) Davis Polk & Wardwell LLP and Porter Hedges LLP, as counsel to an ad hoc group of holders of 1L Notes (the "**First Lien Noteholder Group**"); (i) Carlyle Global Credit Investment Management, LLC, and its counsel; (j) Senator Investment Group LP and its counsel; (k) Kobre & Kim LLP as counsel to an ad hoc group of holders of Unsecured Notes; (l) Langur Maize, L.L.C. and its counsel; (m) Katsumi and its counsel; (n) Platinum and its counsel; (o) each of the Debtors' depositories and their respective counsel; (p) the Internal Revenue Service; (q) the Office of the U.S. Attorney for the Southern District of Texas; and (r) any other party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors respectfully submit that no further notice is required under the circumstances.

[Remainder of page intentionally blank]

Upon the foregoing Motion, the Debtors respectfully request that the Court (a) enter an order, substantially in the form attached as **Exhibit A**, granting this Motion and (b) grant such other relief as is just and proper.

Dated: June 1, 2023

Respectfully submitted,

/s/ Kelli S. Norfleet

Kelli S. Norfleet (TX Bar No. 24070678)
Charles A. Beckham, Jr. (TX Bar No. 02016600)
Martha Wyrick (TX Bar No. 24101606)
HAYNES AND BOONE, LLP
1221 McKinney Street, Suite 4000
Houston, TX 77010
Telephone: 1 (713) 547-2000
Email: Kelli.Norfleet@HaynesBoone.com
Charles.Beckham@HaynesBoone.com
Martha.Wyrick@HaynesBoone.com

- and -

Dennis F. Dunne (*pro hac vice* pending)
Samuel A. Khalil (*pro hac vice* pending)
Benjamin M. Schak (*pro hac vice* pending)
MILBANK LLP
55 Hudson Yards
New York, NY 10001
Telephone: 1 (212) 530-5000
Email: DDunne@Milbank.com
SKhalil@Milbank.com
BSchak@Milbank.com

*Proposed Counsel to the
Debtors and Debtors in Possession*

CERTIFICATE OF ACCURACY

I certify, pursuant to Local Rule 9013-1(i), that the foregoing statements regarding the nature of the emergency set forth in the foregoing Motion are true and accurate to the best of my knowledge.

Dated: June 1, 2023

/s/ Kelli S. Norfleet
Kelli S. Norfleet

CERTIFICATE OF SERVICE

I certify that, on June 1, 2023, a true and correct copy of the foregoing document was served through the Electronic Case Filing system of the United States Bankruptcy Court for the Southern District of Texas, and will be served as set forth in the Affidavit of Service to be filed by the Debtors' proposed noticing agent.

Dated: June 1, 2023

/s/ Kelli S. Norfleet
Kelli S. Norfleet

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re

WESCO AIRCRAFT HOLDINGS, INC.,
et al.,¹

Debtors.

Case No. 23-90611 (DRJ)

Chapter 11

(Jointly Administered)

**ORDER (I) AUTHORIZING
THEM TO MAINTAIN AND ADMINISTER
THEIR EXISTING CUSTOMER PROGRAMS
AND HONOR CERTAIN RELATED PREPETITION
OBLIGATIONS AND (II) GRANTING RELATED RELIEF**

¹ The Debtors operate under the trade name Incora and have previously used the trade names Wesco, Pattonair, Haas, and Adams Aviation. A complete list of the Debtors in these chapter 11 cases, with each one's federal tax identification number and the address of its principal office, is available on the website of the Debtors' noticing agent at <http://www.kccllc.net/incora/>. The service address for each of the Debtors in these cases is 2601 Meacham Blvd., Ste. 400, Fort Worth, TX 76137.

Upon the motion (the “*Motion*”),² of the above-captioned debtors (collectively, the “*Debtors*”), for entry of an order (this “*Order*”) authorizing the Debtors to maintain and administer their customer-related programs, policies, and practices and honor certain related prepetition obligations; and the Court having jurisdiction to decide the Motion and to enter this Order pursuant to 28 U.S.C. § 1334; and consideration of the Motion being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper in the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided, such notice being adequate and appropriate under the circumstances; and after notice and a hearing, as defined in section 102 of the Bankruptcy Code; and the Court having determined that the legal and factual bases set forth in the Motion and in the record establish just cause for entry of this Order; and it appearing that entry of this Order on an emergency basis is in the best interests of the Debtors’ estates and that immediate relief is justified to avoid immediate and irreparable harm to the Debtors’ estates; it is hereby **ORDERED** that:

1. The Debtors are authorized, but not directed, to continue to administer the Customer Programs as described and characterized in the Motion and satisfy prepetition obligations related thereto in the ordinary course of business and consistent with past practice. For the avoidance of doubt, this Order does not: (a) direct the Debtors to continue the Customer Programs and any continuation of the Customer Programs is in the Debtors’ sole discretion; or (b) create any administrative priority under the Bankruptcy Code with respect to any claims arising under or relating to the Customer Programs.

2. If, at any time during these bankruptcy cases, the Debtors cease to honor and maintain any of their Customer Programs, the Debtors shall promptly file a notice of the same with the Court.

3. The banks and financial institutions on which checks were drawn or electronic fund transfer requests made in payment of the prepetition obligations approved herein are authorized

² Capitalized terms used but not defined in this Order have the meanings ascribed to them in the Motion.

and directed to receive, process, honor, and pay all such checks and electronic fund transfer requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic fund transfer request as approved by this Order.

4. Notwithstanding the relief granted in this Order, all authorizations herein and all payments and actions pursuant thereto shall be subject to each interim and final order entered by the Court in respect of the *Debtors' Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors To (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief* filed contemporaneously herewith (collectively, such interim and final orders, the “**DIP Order**”), including compliance with any budget or cash flow forecast in connection therewith and any other terms and conditions thereof. Nothing herein is intended to modify, alter, or waive, in any way, any terms, provisions, requirements, or restrictions of the DIP Order or the DIP Documents (as defined in the DIP Order). To the extent there is any inconsistency between the terms of the DIP Order and the terms of this Order, the terms of the DIP Order shall control.

5. Notwithstanding the relief granted herein and any actions taken pursuant to such relief, nothing contained in the Motion or this Order (nor any actions or payments pursuant to the relief granted herein) shall constitute, nor is it intended to constitute: (a) an implication, admission, concession or finding as to the validity, priority, amount, basis for, or secured status of any particular claim against any Debtor, including priority under section 503(b)(9); (b) a waiver of the Debtors' or other party in interest's right to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) a waiver of any claim or cause of action that any Debtor or other party in interest may have against any entity; (e) a ratification, adoption, rejection or assumption of any agreement, contract or lease under section 365 of the Bankruptcy Code; (f) a waiver or limitation of any Debtor's or other party in interest's rights under any

agreement, the Bankruptcy Code or other applicable law; or (g) an implication, admission, concession or finding (i) that any particular claim is of a type specified or defined in the Motion or (ii) that any lien, security interest, other encumbrance on property of any Debtor or right of setoff is valid, enforceable or perfected (and the Debtors and all other parties in interest expressly reserve and preserve their rights to contest or to seek avoidance of the same). Any payment made pursuant to this Interim Order should not be construed as an admission as to the validity, priority, or amount of any particular claim or a waiver of the Debtors' or any other party in interest's rights to subsequently dispute such claim.

6. Nothing herein shall impair or prejudice the rights of the U.S. Trustee, any statutory committee appointed in these chapter 11 cases or any other party in interest, which are expressly reserved, to object to any payment made pursuant to this order to an insider (as such term is defined in section 101(31) of the Bankruptcy Code), or an affiliate of an insider, of the Debtors. To the extent the Debtors intend to make a payment pursuant to this order to or for the benefit of an insider or an affiliate of an insider of the Debtors, the Debtors shall first obtain the prior written consent of the Required Purchasers (as defined in the DIP Order) and, to the extent reasonably practicable, provide three (3) business days' advance notice to, and opportunity to object by the U.S. Trustee, the First Lien Noteholder Group and any statutory committee appointed in these chapter 11 cases; *provided*, that if any party objects to the payment, the Debtors shall not make such payment without further order of the Court.

7. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any Customer Programs.

8. The Debtors shall maintain a matrix/schedule of all amounts directly or indirectly paid under the terms of this Order (the "***Payment Matrix***"), including the following information: (a) the nature, date, and amount of the obligations; (b) the category or type of the obligations, as further described and classified in the Motion; and (c) the Debtor or Debtors that made or incurred

the obligation. Within 20 days after the end of each month, commencing with the first full month after entry of this Order, the Debtors shall provide a copy of the Payment Matrix to the U.S. Trustee and on a confidential and to any statutory committee appointed in these chapter 11 cases. The Debtors shall not be required to file or publish the Payment Matrix.

9. Notwithstanding Bankruptcy Rule 6004(h) or any other provision of the Bankruptcy Rules or Local Rules, the terms of this Order shall be immediately effective and enforceable upon its entry.

10. The Debtors and their agents are authorized to take all steps necessary or appropriate to carry out this Order.

11. The Court shall retain jurisdiction over all matters arising from or related to the implementation, interpretation or enforcement of this Order.

Dated: _____
Houston, Texas

UNITED STATES BANKRUPTCY JUDGE